

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS
DIVISION II

2021 OCT 12 PM 2:14

STATE OF WASHINGTON

Respondent,

v.

Jimmie Louis Tschabold
(your name)

Appellant.

No. 55688-0-II

STATE OF WASHINGTON

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

BY AP
DEPUTY

I, Jimmie Tschabold, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

See attachment

Additional Ground 2

See attachment

If there are additional grounds, a brief summary is attached to this statement.

See attachments

Date: 10-5-21

Signature: Jimmie Tschabold

Form 23

E-FILE DOCUMENT

P/M: 10/8/21

Additional Grounds

pg Table of contents!

1	1	NO contact order violation
2	4	Search warrant
3	7	Double Jeopardy " Multiplicitous "
4	9	continuous act
5	10	No Photograph
6	11	Officer Barry

Exhibit

Table of contents!

1	9-1-1 call " Kendra's call "
2	Officer Sullivan's " Narrative "
3	7:00 AM text message to Rick " both pictures " of the text
4	Officer's Sullivan " Probable cause "
5	Officer Sullivan admitting he lied
6	Proof of Dismissing the charges " Disclosing Intimate Images "
7	8-4-21 Search warrant
8	12-8-21 Search warrant
9	State v. Petrich and People v. Mota
10	concern about nude Pictures.

Additional Grounds 1

My arrest started from a false 9-1-1 call that (v) Kendra collison made at 6:42 AM saying "That ExBoyF called RPS DAD stating that he would go to RPS house and hurt her or kill her, did not give any specific time frames also was att to get RPS contact info from DAD." [Refer to Exhibit 1]

When officer Sullivan arrived at 7:04 AM, He then made contact with (v) Kendra collison who then changed her story from the 9-1-1 call to, "At approximately 0630 hours, Kendra's father Rick collison called her and said he had received a text message from Jimmie Tschabeld, Kendra said that Rick told her that Jimmie was trying to get her phone number and address for parenting plan information. Officer Sullivan ran a check through 911 records confirmed three active DV orders listing Kendra as the protected party and Jimmie as the respondent." [Refer to Exhibit 2]

Rick collison received the text message at 7:00 AM, which stated:

"Hi this is Jimmie. Im just telling you im going to be getting a parenting plan today, so i can see my daughter. whatever Kendra told you what i did was a lie. I love my daughter more then anything. Kendra is doing what her mom did to you, when she kept Kendra and Kia away from you. If you can be on my side for this because i need help. I miss my daughter. Kendra cheated on me 4 times. She admitted to it all. thats why i started treating her like shit, was because i didnt trust her. if you want to talk in person heres my address: 5303 69th Ave SE #32 playallup wa 98371." [Refer to Exhibit 2, 3]

9-1-1 Cad Incident Inquiry

07:24:37 Event Remark 506-- Pt for order via x3

This is the time that officer Sullivan issued my arrest for the text that Rick collison received from me at 7:00 AM. [Refer to Exhibit 2, 3]

My Arrest offense: Violation of protection order. [Refer to Exhibit 4]

New charges: Violation of protection order 3 [Refer to Exhibit 4]

The probable cause that officer Sullivan used at 7:24:37 AM stated:

Jimmie was arrested after he violated three confirmed served DV orders when he reached out to the protected party's father and attempted to retrieve the protected partys phone number and address. [Refer to Exhibit 4]

I put officer Sullivan on the stand and asked him this:

Q: Anywhere in that text to Rick, Did i ever ask him for kendra's address or phone number?

A: NO. [Refer to Exhibit 5 Line 23 to 25]

Officer Sullivan just admitted that i never asked Rick collison for kendra's information, so how was officer Sullivan able to issue my arrest at 7:24:37 AM, for the text to Rick collison at 7:00 AM which did not instute a NO contact order violation.

Officer Sullivan went through with using this probable cause to arrest me

Jimmie was arrested after he violated three confirmed served DV orders when he reached out to the protected partys father and attempted to retrieve the protected partys phone number and address. knowing it was a lie. [Refer to Exhibit 2, 4 and 5 Line 23 to 25]

Case law: U.S. Supreme Court: Maryland vs. Pringle, 540 U.S. 366, 124 S. Ct. 795, 800, 157 L. Ed. 2d. 769, 775 (2003) ("To determine whether an officer had probable cause to arrest an individual, we examine the events leading up to the arrest.")

What lead to my arrest was the text to Rick collison at 7:00 AM which turned into Kendra and officer Sullivan lying and saying i was asking him for Kendra's information. [Refer to Exhibit 2, 4 and 5 Line 23 to 25]

In my probable cause officer Sullivan puts - all 3 No contact order violations with the text to Rick collison.

"Jimmie was arrested after he violated three confirmed served DV orders when he reached out to the protected partys father and attempted to retrieve the protected partys phone number and address." and during trial, i got him to admit that he lied about this. [Refer to Exhibit 2, 3, 4 and 5 Line 23 to 25]

There for my arrest was illegal!

Additional Grounds 2

The State charged me with:

- 1: Felony NO contact order violation.
- 2: Cyberstalking.
- 3: Disclosing Intimate Images.
- 4: Disclosing Intimate Images.

The felony NO contact order violation is with the father Rick Collison, The allege 3rd party. [Refer to Exhibit 4] (which says ↓)

Jimmie was arrested after he violated Three confirmed served DV orders when he reached out to the protected party's father and attempted to retrieve the protected party's phone number and address. [Refer to Exhibit 4]

The State on December 30, 2020, Dismiss the 2 counts of Disclosing Intimate Images due to them not being Intimate. [Refer to Exhibit 6 Line 3 to 16]

On August 4th, 2020, was the first search warrant they got for my cell phone. Deputy N. Saechao #479/0721 under penalty of Perjury believe there is probable cause for the crimes of Disclosing Intimate Images DV and violation of order DV. [Refer to Exhibit 7 Pg 60 Line 8 to 14]

The State used the disclosing Intimate Images charges to get the pictures off my phone. but the state dismissed that charge [Refer to Exhibit 6 Line 3 to 16]

But the state used the Felony No contact order violation even though it was with the allege 3rd party with Rick collison

Jimmie was arrested after he violated three confirmed served

DV orders when he reached out to the protected party's

father and attempted to retrieve the protected party's

phone number and address. [Refer to Exhibit 4] They used

this charge to get the text message i sent Rick collison at 7:00 AM

and to get the allege fake facebook stuff to. [Refer to Exhibit 3]

The state could not have used the No contact order violation to get the stuff about the fake "Kendra collison" Facebook account because it was with the text to Rick collison only.

The first Search warrant [Refer to Exhibit 7 Pg 70]

December 8th, 2020, was the second search warrant. [Refer to Exhibit 8]

Case law: Franks, 438 U.S. at 171; State v. Cord, 103 Wn. 2d 361, 367, 693 P.2d 81 (1985) Material factual inaccuracies and material inaccuracies and material misrepresentations void a warrant only if they were made with "deliberate falsehood" or as a result of "Reckless Disregard for the truth."

Under the fourth Amendment factual inaccuracies or omissions in a Warrant if the defendant establishes that they are (1) material and (2) made in Reckless disregard for the truth. A showing of mere negligence or inadvertence is sufficient.

There was never a No contact order violation with Rick Collison like Officer Sullivan said and they dismissed the disclosing Intimate Images charges. [Refer to Exhibit 4 and 6 Line 3 to 16]

Which means there was no Probable cause for the search warrants. [Refer to Exhibit 7 Pg. 60 Line 8 to 14]

"Fruit of the Poisonous tree"

Additional Grounds 3

The State charged me with:

1. Felony No contact order violation.
2. Cyberstalking.
3. Disclosing Intimate Images.
4. Disclosing Intimate Images.

The No contact order violation is with Rick collison.

"Jimmie was arrested after he violated three confirmed served DV orders when he reached out to the protected party's father and attempted to retrieve the protected party's phone number and address." [Refer to Exhibit 4]

The day i got arraign, The state only charged me with one count of a felony No contact order violation and that was for the text to Rick collison at 7:00 AM. [Refer to Exhibit 3]

The state failed to charge me with 2 counts of a felony No contact order violation, one with rick collison and the second with the cyberstalking.

The state put me in a difficult situation, They made the No contact order violation with Rick collison by it's self and they also put it with the cyberstalking. which are too different things, the one with Rick is an allege 3rd party and the cyberstalking one is direct contact with kendra.

The state did a form of Double Jeopardy called Multiplicitous when they put the allege 3rd party NO contact order violation for the text to Rick collison and put it with the cyberstalking which should have had it's own NO contact order violation since i contacted her directly.

¹ An indictment is multiplicitous if it charges a single offense in more than one count.¹¹

United States vs. Jones, 601 F3d, 1247 (11th Cir. 2010) (internal quotation marks omitted),

A multiplicitous indictment violates double Jeopardy principles by giving the Jury more than one opportunity to convict the defendant for the same offense. A multiplicitous-indictment challenge is subject to the same standard as a double Jeopardy challenge.

basically i beat the 3rd party with Rick collison since i never asked for kendra's information and lose to cyberstalking and still get found guilty for the NO contact order even though i beat it.

Additional Grounds 4

The state ended up using the case State v. Petrich for a continuous act for combining the allege 3rd party with Rick collison and the Cyberstalking. When the state could not because the allege 3rd party with Rick collison was only with him. [Refer to Exhibit 4.]

In State vs. Petrich for it to be a continuous act there cant be stops. [Refer to Exhibit 9 = State v. Petrich and People v. Mota.]

Hence forth the state could not have done this.

Additional Grounds 5

Officer Sullivan refused to take a picture of the alleged nude photograph Kendra and her father received. [Refer to Exhibit 2]

The State knowing this still charged me with Disclosing Intimate Images even though it requires a picture.

The State knowing they messed up, contacted Kendra Collison on August 20, 2020, in regards to the nude photos that were sent by allegedly me. Kendra told them, She did not have them anymore. [Refer to Exhibit 10]

The State knowing this still used that charged for a 2nd Search warrant on December 8, 2020. [Refer to Exhibit 8 Pg 177]

This is part of my Motion to appeal, I did in January 2020

I was illegally arrested by officer Barry #315 on July 7, 2020 at the DOC Office.

The moment officer Barry made contact with me at the Department of Corrections Office, he was to detain me for officer Sullivan -

The police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity may be afoot, even if the officer lacks probable cause. (Quoting Terry v. Ohio, at 30, 201 ed. 2d 889, 89 S. Ct. 1868 (1968)). Additionally instead officer Barry detaining me, he was illegally arresting me although handcuffs do not automatically convert an encounter into a de facto arrest if officers are taking reasonable measures to protect themselves. See United States v. Meadows, 2009 U.S. App. Lexis 14935 (1st Cir. 2009). Officer Barry had no right to use handcuffs since the use of handcuffs requires showing facts or circumstances leading to reasonable belief use of restraints was necessary, see United States, Supra

2009. I was at the department of corrections field officer reporting, where I was subject to pat searches. A reasonable officer in that situation should have known there was no concern for his safety. After officer Barry placed me in handcuffs then transported me to the Puyallup Jail to meet with officer Sullivan, The arrest occurred

" U.S. Supreme court: *Krupp v. Texas*, 538 U.S. 626 S. Ct 1243, 1245, 155 L. Ed. 2d 814, 820 (2003) Justice agreed (Per curiam) when the officer took custody of the defendant by placing him in handcuffs, transporting him in the patrol car and taking him to the interrogation room in the station house." The arrest had taken place.

[Refer to Exhibit 2 at the bottom]

EXHIBITS

1

Cad Incident Inquiry

Complaint: 2018900307

Disp: M

Case No: 2018900307

Call Received: 20200707 0642

Call Cleared: 20200707 0959

End Priority: 4

Incident Type

Starting: VIO - VIOLATION OF COURT ORDER

Ending: VIO - VIOLATION OF COURT ORDER

Location

12303 118TH AVCT E #D (FOX RUN APTS)

12303 118TH AVCT E #D (FOX RUN APTS)

Location Information

Starting:

Ending:

Agency

Starting: PCSD

Ending: PCSD

Geographic Zone

SE

SE

Dispatch Group

SE

SE

CB

626

626

District

PC06

PC06

Date/Time

Dispatch: 20200707 0647

Arrival: 20200707 0704

Clear: 20200707 0959

Close: 20200707 0959

Unit

506

506

506

506

ID

Dispatcher: SS0204

Com Officer: SS0382

Primary Unit: 506

Station

sd02

pd07

Cross Referenced Events

2018900308

Name	DOB	Phone	Location	Call Source	Contact
COLLISON, KENDRA M.	05/22/1997	(253) 604-9380			YES

☒ Include State Messages (WACIC/DOL/DOC/NCIC/NLETS)

System Date	System Time	Com	Station	Off	Text
20200707	06:46:37	Event Updated	pd07	SS0382	Location: 12303 118TH AVCT E PCO,D: @FOX RUN APTS, Event Type: VIO, Priority: 4, Dispatch Group: SE
20200707	06:46:37	Initial Call	pd07	SS0382	Caller Name = COLLISON, KENDRA M., DOB = 05/22/1997, Caller Ph Number = (253) 604-9380,
20200707	06:46:37	Event Remark	pd07	SS0382	20 AGO VIA PHONE CALL...EXBOYF, TSCHABOLD, JIMMIE L, W/M, 08/20/1994... CALLED...RPS DAD, COLLISON, RICK, W/M, 04/16/1966... RP STATES THAT EXBOYF CALLED RPS DAD STATING THAT HE WOULD GO TO RPS HOUSE AND HURT HER OR KILL HER, DID NOT GIVE ANY SPECIFIC TIME FRAMES, ALSO WAS ATT TO GET RPS CONTACT INFO FROM DAD... RP HAS A RESTRAINING ORDER AGAINST EXBOYF
20200707	06:47:54	Dispatched	sd02	SS0204	506 (PCSD15123) Sullivan, Christopher
20200707	06:48:01	Acknowledge	\$506	PCSD15123	506 (PCSD15123) Sullivan, Christopher
20200707	06:57:27	Event Remark	\$506	PCSD15123	Unit [506] Inf Issue Qry 0:PERO .NAM/COLLISON, KENDRA M .DOB/19970522
20200707	06:57:27	Event Remark	\$506	PCSD15123	Unit [506] Inf Issue Qry 0:PERO .NAM/COLLISON, KENDRA M .DOB/19970522

1L0105S600L99BQW WA0272961 ***MESSAGE KEY QW SEARCHES WANTED PERSON FILE FELONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS. *****WARNING - THE FOLLOWING IS AN NCIC PROTECTION ORDER RECORD. DO NOT SEARCH, DETAIN, OR ARREST BASED SOLELY ON THIS RECORD. CONTACT ENTERING AGENCY TO CONFIRM STATUS AND TERMS OF PROTECTION ORDER***** THE SUBJECT OF THIS RECORD IS PROHIBITED FROM RECEIVING OR POSSESSING A FIREARM UNDER FEDERAL LAW (TITLE 18, U.S.C.,

EXHIBITS

2

Pierce County Sheriff Department Arrest
Report

Jurisdiction Agency: Pierce County Sheriff Department

Incident No. 2018900307.1

Page 6 of 7

Clear						Owner Notified			Operators Name
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Investigative Information

Means:		Motive:	
Vehicle Activity:		Direction Vehicle Traveling:	

Synopsis:	
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Narrative:

On 7/7/2020, at approximately 0648 hours, I was dispatched to [REDACTED] for a violation of a DV Protection Order report.

When I arrived I contacted V/ Kendra M Collison who told me she received a phone call from her father, W/ Rick T Collison, at approximately 0630 hours telling her he had received a text message from A/ Jimmie L Tschabold. Kendra told me Rick told her that Jimmie was trying to get her phone number and address for parenting plan information. A check through SS911 Records confirmed three active DV orders listing Kendra as the protected party and Jimmie as the respondent (#191000661 Served and expires 1/3/2024, #9ZC002382 Served and expires 9/20/2021 and #191038481 Served and expires 4/7/2025).

Kendra told me Jimmie had just been released from jail yesterday on 7/6/2020. Kendra said she started receiving several Facebook messages from her friends, at approximately 1819 hours, telling her they had been contacted by a fake profile pretending to be her and had sent all of them nude photographs of Kendra. Kendra then told me that she received a message from the same fake profile, while we were talking, at approximately 0754 hours, and showed it to me. The profile had a picture of Kendra and said "you have 2 days Yvette and all your porn pictures will be posted everywhere in Pierce county" followed by a graphic nude photograph of Kendra laying on her back with her legs in the air and she is manipulating her vagina with her fingers. Kendra was extremely embarrassed by the photo and expressed her concern over it being sent to all of her friends and father. The profile name was "Kenrda Colison" and Kendra told me the photograph was the same one that her friends had all received and said it was an old one that she had only given to Jimmie. Kendra told me she had called to report this yesterday (case 2018801635) but was unsure if a report had been filed. Kendra said she had been reporting the fake profile all night and had been asking her Facebook friends to do the same in hopes that Facebook would take the profile down. Kendra then told me that Jimmie had done this once before, back in October 2019, in which he had made a fake profile in her image. When I asked Kendra how she knew it was Jimmie last time she said that he had sent her a message telling her it was him and he said he wanted to talk with her in person. Kendra also told me Jimmie uses an app on his phone to send text messages to people from a different cell phone number.

I took digital photographs of the messages from Kendra's Facebook friends as well as the message sent to her from the fake profile. Do to the graphic nature of the nude photograph I did not take a picture of it. I then called Rick who confirmed he had received a text message from Jimmie which said "Hi this is Jimmie. I'm just telling you I'm going to be getting a a parenting plan today . so I can see my daughter. Whatever Kendra told you what I did was a lie. I love my daughter more then anything. Kendra is doing what her mom did to you. When she kept Kendra and Kia away from you. If you can be on my side for this because I need help. I miss my daughter. Kendra cheated on me 4 times. She admitted to it all. That's why I started treating her like shit. Was because I didn't trust her. If you want to talk in person heres my address.

[REDACTED] Rick then told me Jimmie had also sent him two nude photographs of Kendra. I gave Kendra a DV pamphlet with this case number on it and she completed a DV supplemental report. Kendra told me Jimmie has violated the orders so many times now she is afraid that he will attempt to kill her if he doesn't get what he wants and she doesn't believe the orders will protect her.

I requested units respond to the address Jimmie gave and Deputy Lopez #409 responded. Deputy Lopez informed me Jimmie's grandfather had told him that Jimmie had just taken an Uber to the Puyallup DOC office to check in. I requested Puyallup Units attempt to contact Jimmie at the DOC office and a few minutes later I was informed that Puyallup PD had Jimmie detained. I met Officer Barry #315 and Jimmie at the Puyallup PD precinct. Jimmie was in handcuffs and I replaced Officer Barry's handcuffs with my own ensuring to gauge, double-lock and re-check the handcuffs for proper fit. I placed Jimmie into the back of my

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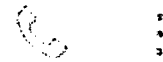
EXHIBITS

3



73% 09:27

+12532688214



Tuesday, July 7, 2020

Hi this his Jimmie. I'm just
telling you I'm going to be
getting a a parenting plan
today . so I can see my
daughter. Whatever Kendra
told you what I did was a lie. I
love my daughter more then
anything. Kendra is doing
what her mom did to you.
When she kept Kendra and
Kia away from you. If you c



VIEW ALL



07:00

Ct e sp 32

07:01

Text Message
Today 10:05 AM

Hi this is Jimmie. I'm just
telling you I'm going to be
getting a a parenting plan
today . so I can see my
daughter. Whatever Kendra
told you what I did was a lie. I
love my daughter more then
anything. Kendra is doing what
her mom did to you. When she
kept Kendra and Kia away from
you. If you can be on my side
for this because I need help. I
miss my daughter. Kendra
cheated on me 4 times. She
admitted to it all. That's why I
started treating her like shi
t because I didn't want
her to talk to me.

EXHIBITS

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Pierce County Sheriff Department Arrest Report Jurisdiction Agency: Pierce County Sheriff Department	Incident No. 2018900307.1	Page 2 of 7
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restee A1: Tschabold, Jimmie Louis

PDA:

Aliases:									
DOB:		Age:		Sex:	Male	Race:	White	Ethnicity:	Non-Hispanic
Height:	5' 10"	Weight:	125	Hair Color:	Brown	Eye Color:	Blue		
Address:				County:		Phone:			
City, State Zip:				Country:		Business Phone:			
Other Address:							Other Phone:		
Resident:	Full - Time Resident			Occupation/Grade:	Unknown			Employer/School:	Unknown
SSN:				DOC No:				FBI No:	
State ID:				Local CH No:					
Driver License No:				Driver License State:				Driver License Country:	
Hair Length:				Glasses:				Facial Hair:	
Hair Style:				Teeth:				Facial Shape:	
Hair Type:				Speech:				Complexion:	
Appearance:				Right/Left Handed:				Facial Feature Oddities:	
SMT:							Distinctive Features:		
Attire:							Body Build:	SLT - Slight	
Gangs:							Tribe Affiliation:		
Significant Trademarks:							Identifiers:		
Suspect Pretended to Be:				Modus Operandi:					
Place Of Birth:				Habitual Offender:				Custody Status:	
Date/Time Arrested:	7/7/2020 08:10:00			Booked Location:				Date/Time Booked:	
Arrest Location:	12303 118TH Avct E #D			Released Location:				Held For:	
Arrest Offense:	3811 - Violation of Court Order - Protection / Restraining / No Contact						Date/Time Released:		
Arrest Type:	On-view Booked - New Probable Cause						Juvenile Disposition:		
Presence of / Access to Firearms:	Unknown			Armed With:	Unarmed			Adult Present Name:	
Miranda Read:	Yes			Miranda Waived:	Yes			Detention Name:	
No. Warrants:				Multi. Clearance:	Not Applicable			Notified Name:	
Fingerprints:				Photos:	No			Previous Offender:	
Type of Injury:							Fire Dept Response:		
Hospital Taken To:				Medical Release Obtained:				Taken By:	
Attending Physician:				Hold Placed By:					

New Charges

Arrest #	Book/Cite	Charge Description - RCW/Ordinance	Free Text Charge Description	Court	Bail	Count
00000	Book	M - Violation Of A Protection Order/DV (Misd) - -		Pierce County District Court #1		3

Warrants

Arrest #	Warrant #	Warrant Case #	Free Text Charge Description	Agency	Court	Bail
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Arrest Notes:	
Probable Cause:	Jimmie was arrested after he violated three confirmed served DV orders when he reached out to the protected party's father and attempted to retrieve the protected party's phone number and address. Jimmie also made a fake facebook profile of the protected party/victim which he used to reach out to the victim's friends, as well as the victim herself, and demanded that they give him the victim's information or he would send nude photographs of the victim to "all of Pierce County"

EXHIBITS

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1 Q. Yes..

2 A. Third party would be someone outside of the
3 immediate contact between the two people.

4 Q. Did the text message to Rick Collison, when he
5 is not a protected party, constitute a no contact order
6 violation?

7 MR. HALSTROM: Your Honor, I'd object that
8 this is asking the witness to give his opinion as to a
9 ultimate issue.

10 THE COURT: Sustained.

11 THE DEFENDANT: Okay.

12 Q. (By the Defendant) Anywhere in the text
13 message to Rick did you ever ask for his daughter's
14 number or address?

15 A. I'd have to refer back to the text message.

16 Q. It would be Exhibit 57.

17 MR. HALSTROM: Your Honor, that's
18 Exhibit 57.

19 Q. (By the Defendant) Can you identify what's in
20 front of you, please?

21 A. Yes. It's a text message Rick said he
22 received.

23 Q. Anywhere in that text message to Rick did I
24 ever ask him for Kendra's address or phone number?

25 A. No.

EXHIBITS

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1 MR. HALSTROM: Your Honor, the State will
2 be filing an Amended Information today. Based off of
3 the evidence that we have received, at this point we're
4 going to drop the Counts 2, 3, and 4. That may change
5 again in the middle of trial. But as far as the
6 evidence we have presently, I don't think it's
7 supported. And that may have been evident to the Court
8 to some degree in the State's response to the motions.
9 ~~But it appears the images were not obtained in a~~
10 ~~Basically it doesn't fit all the elements.~~

11 THE COURT: Okay.

12 MR. HALSTROM: So we're dropping Charges
13 2, 3, and 4. The State is considering adding an
14 aggravator of rapid recidivism, but we haven't done so
15 at this time.

16 THE COURT: All right.

17 MR. HALSTROM: So I'll be handing that up
18 forward to the Court.

19 THE COURT: Have you provided
20 Mr. Tschabold with a copy of the Amended Information?

21 MR. HALSTROM: I'm providing it now.

22 THE COURT: Thank you.

23 MR. HALSTROM: I also noticed an error in
24 Count 1. It had a domestic violence aggravator.

25 THE COURT: Mm-hm.

EXHIBITS

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1
2 SUPERIOR COURT, PIERCE COUNTY, WASHINGTON
3

4 STATE OF WASHINGTON) SW NO. _____
5)
6 COUNTY OF PIERCE) APPLICATION FOR SEARCH WARRANT
7

8 1. Declaration

9 I, Deputy. N. Saechao #479/07021 declare under penalty of perjury that I have personal
10 knowledge of the matters set forth below and that I am competent to testify to the matters stated
11 herein:

12 On the basis of the following, I believe there is probable cause that Jimmie L.
13 Tschabold has committed the crime(s) of Disclosing Intimate Images DV as defined under
14 R.C.W. 9A.86.010, Violation of Order DV as defined under R.C.W. 26.50.110 in Pierce
15 County, and that evidence of those crimes is located in the following described evidence
16 item/device:

- 17 1. Jimmie Tschabold's cell phone from PCSD # 2018900307 (including any
18 internal/external memory cards inserted and/or attached to said item, including SIM
19 or microSD cards), a Nokia cell phone presently being stored in the Pierce County
20 Sheriff's main property room.
21 2. The above phone(s)/computer(s)/storage medium(s)/memory card(s)/device(s) for
22 information within the above listed item(s) including; machine readable data,
23 previously erased data, or data inadvertently intercepted while the device was in law
24 enforcement's care and custody.

25 2. Affiant's Training and Experience

26 Your Affiant has been employed with the Pierce County Sheriff's Department since June
27 2007. From June 2007 to February 2014 your Affiant was assigned to the Pierce County
28 Detention and Corrections Center as a Corrections Deputy. Your Affiant was hired in February
2014 as a Deputy Sheriff with the Patrol Division and performed duties in patrol for about 5

1 media accounts, messaging "app" accounts, and other accounts that may be accessed
2 through the digital device that will aid in determining the possessor/user of the device;

3
4 And for the date range 07/05/2020 at 0000 hours PST until 07-07-2020 at 2359 hours PST the
5 following information:

- 6
- 7 • Evidence of use of the device during the above date range to communicate with the
8 victim(s) Kendra Collison, Rick T Collison, or other Facebook users the suspect sent
9 messages to purporting to be the victim; via incoming or outgoing calls, chat sessions,
10 instant messages, text messages, app communications, social media, SMS
11 communications, and other similar digital communications;
 - 12 • Photographs, images, videos, and related data depicting the victim nude created,
13 accessed, read, modified, received, stored, sent, moved, deleted or otherwise manipulated
14 during the above date range;
 - 15 • Information that can be used to calculate the position of the phone during the above date
16 range, including location data; cell tower usage; GPS satellite data; GPS coordinates for
17 routes and destination queries between the above-listed dates; "app" data or usage
18 information and related location information; and images created, accessed or modified
19 between the above-listed dates, together with their metadata and EXIF tags;
 - 20 • Evidence of the identity of the person in possession of the device on or about any times
21 that items of evidentiary value, located pursuant to this warrant, were created modified,
22 accessed or otherwise manipulated. Such evidence may be found in digital
23 communications, photos and video and associated metadata, phone logs, documents,
24 social media activity, and similar data;
 - 25 • User account data on the device related to the Facebook username Kendra Colison, or the
26 email account kendramike12@yahoo.com, or the texting application number of
27 +12532688214.

28
29 **3. Conclusion**

[x] (Check if applicable) This application was submitted to the issuing Judge using an
electronic device that is owned, issued, or maintained by the below-identified criminal

1 justice agency.

2
3 I certify under penalty of perjury under the laws of the State of Washington that the
4 foregoing is true and correct.

5
6 Signed this 4th day of August 2020 at Tacoma, WA.

7
8 Declarant's Signature: /S/ Deputy. N. Saechao/479

9
10 OR, if submitted electronically or by telephone:

11
12 Declarant's Full Name: Nai Saechao

13 Agency Badge/Serial or Personnel #: 479/07021

14 Agency Name: Pierce County Sheriff's Department

15 ☒ (Check if applicable) The Judge's signature, below, was placed by declarant, at the
16 Judge's direction given by:

17 ☐ telephone (preserve a recording of the authorization),

18 ☒ email (preserve and file the email), or by

19 ☐ _____ (other reliable method).

20 On 4th day of August 2020, I reviewed and considered the above application, submitted
21 to me under penalty of perjury.

22
23 Signature: /S/ Judge Phil Sorensen

24 SUPERIOR/DISTRICT COURT JUDGE

25 Printed Judge's Name: Phil Sorensen

EXHIBITS

8

SUPERIOR COURT, PIERCE COUNTY, WASHINGTON

STATE OF WASHINGTON)

SW NO. _____

COUNTY OF PIERCE)

APPLICATION FOR SEARCH WARRANT

1. Declaration

I, Deputy. N. Saechao #427/07021 declare under penalty of perjury that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein:

On the basis of the following, I believe there is probable cause that Jimmie L. Tschabold has committed the crime(s) of **Disclosing Intimate Images DV as defined under R.C.W. 9A.86.010, Violation of Order DV as defined under R.C.W. 26.50.110** in Pierce County, and that evidence of those crimes is located in the following described evidence item/device:

1. **Jimmie Tschabold's cell phone from PCSD # 2018900307** (including any internal/external memory cards inserted and/or attached to said item, including SIM or microSD cards), **a Nokia cell phone** presently being stored in the Pierce County Sheriff's main property room.
2. The above phone(s)/computer(s)/storage medium(s)/memory card(s)/device(s) for information within the above listed item(s) including; machine readable data, previously erased data, or data inadvertently intercepted while the device was in law enforcement's care and custody.

2. Affiant's Training and Experience

Your Affiant has been employed with the Pierce County Sheriff's Department since June 2007. From June 2007 to February 2014 your Affiant was assigned to the Pierce County Detention and Corrections Center as a Corrections Deputy. Your Affiant was hired in February 2014 as a Deputy Sheriff with the Patrol Division and performed duties in patrol for about 5

media accounts, messaging “app” accounts, and other accounts that may be accessed through the digital device that will aid in determining the possessor/user of the device;

And for the date range **07/05/2020 at 0000 hours PST until 07-07-2020 at 2359 hours PST** the following information:

- Evidence of use of the device during the above date range to communicate with the victim(s) Kendra Collison, Rick T Collison, or other Facebook users the suspect sent messages to purporting to be the victim; via incoming or outgoing calls, chat sessions, instant messages, text messages, app communications, social media, SMS communications, and other similar digital communications;
- Photographs, images, videos, and related data depicting the victim nude created, accessed, read, modified, received, stored, sent, moved, deleted or otherwise manipulated during the above date range;
- Information that can be used to calculate the position of the phone during the above date range, including location data; cell tower usage; GPS satellite data; GPS coordinates for routes and destination queries between the above-listed dates; “app” data or usage information and related location information; and images created, accessed or modified between the above-listed dates, together with their metadata and EXIF tags;
- Evidence of the identity of the person in possession of the device on or about any times that items of evidentiary value, located pursuant to this warrant, were created modified, accessed or otherwise manipulated. Such evidence may be found in digital communications, photos and video and associated metadata, phone logs, documents, social media activity, and similar data;
- User account data on the device related to the Facebook username Kendra Colison, or the email account kendramike12@vahoo.com, or the texting application number of +12532688214.

3. Conclusion

[x] (Check if applicable) This application was submitted to the issuing Judge using an electronic device that is owned, issued, or maintained by the below-identified criminal

justice agency.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 8th day of December 2020 at Tacoma, WA.

Declarant's Signature: /S/ Deputy. N. Saechao/427

OR, if submitted electronically or by telephone:

Declarant's Full Name: Nai Saechao

Agency Badge/Serial or Personnel #: 427/07021

Agency Name: Pierce County Sheriff's Department

☒ (Check if applicable) The Judge's signature, below, was placed by declarant, at the Judge's direction given by:

☐ telephone (preserve a recording of the authorization),

☒ email (preserve and file the email), or by

☐ _____ (other reliable method).

On 8th day of December 2020, I reviewed and considered the above application, submitted to me under penalty of perjury.

Signature: /S/ Judge Matthew H. Thomas

SUPERIOR/DISTRICT COURT JUDGE

Printed Judge's Name: Matthew H. Thomas

EXHIBITS

9"

Defendant was charged with the offenses as a result of his alleged sexual contact with his granddaughter. At trial, numerous incidents of sexual contact were described in varying detail. Defendant moved to compel the state to elect which offense was to be relied on for conviction. The motion was denied. Defendant was convicted, and his convictions were affirmed on appeal. Defendant sought review. The court reversed the convictions. The state's argument that election was not required because the charge was a continuing offense was not persuasive. The only connection between the incidents was the victim. This was not enough to call the offense one transaction. Thus, the state should have been required to elect the act upon which it relied for conviction or in the alternative, the jury should have been instructed that all 12 jurors were required to agree that the same underlying criminal act was proven beyond a reasonable doubt. In the instant case, neither occurred. On retrial, the court directed that expert testimony was to be excluded that invited the conclusion that because of defendant's relationship to the victim, he was statistically more likely to have committed the crime.

People v. Mota

To determine whether one continuing offense may be charged, the facts must be evaluated in a commonsense manner. In the present case, each described incident occurred in a separate time frame and identifying place. The only connection between the incidents was that the victim was the same person. This is not enough to call the offense one transaction.

EXHIBIT

10

Pierce County Sheriff Department Supplemental Report Jurisdiction Agency: Pierce County Sheriff Department	Incident No. 2018900307.4	Page 2 of 2
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Weapon 1: None

Offense:	3811 - Violation of Court Order - Protection / Restraining / No Contact	Serial No:	
Offender:	A1 - Tschabold, Jimmie Louis	OAN:	
Weapon:	None	Automatic:	
Other Weapon:		Caliber:	
Action:		Gauge:	
Manufacturer:		Length:	
Make:		Finish:	
Importer:		Grips:	
Model:		Stock:	
Weapon Notes:			

Investigative Information

Means:		Motive:	
Vehicle Activity:		Direction Vehicle Traveling:	

Synopsis:	
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Narrative:	<p>On 08/20/2020 at approximately 0845 hours, I contacted (V) Kendra Collison by phone in regards to the nude photos that were sent by Jimmie Tschabold to her friends and family. I asked Kendra if she was willing to provide me with her all of her friends' contact information so I could add them as witnesses to this case. Kendra said she would rather not get her friends involved and that the photos in question have all been deleted since the incident was reported.</p> <p>Her only concern was that (A) Jimmie be held accountable for the DV Court Order Violation. She told me she did not care about the photos anymore.</p> <p>This information was forwarded to the Prosecutors Office for further review.</p>
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I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

08/20/2020 Pierce County, WA 07-021 - Saechao, Nai

Reviewed By:		Reviewed Date:	
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